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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,257	01/22/2002	Frederick R. Bean	TN-2239	3692
7590	08/04/2006		EXAMINER	
Adan Ayala, Esq. Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/054,257	BEAN ET AL.
	Examiner Phong H. Nguyen	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 February 2006 and 17 May 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9,10 and 13-16 is/are pending in the application.
 4a) Of the above claim(s) 1-7,9 and 10 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 13-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 21 February 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group III, claims 13-16 in the reply filed on 05/17/2006 is acknowledged. The traversal is on the ground(s) that there is no serious burden in searching entire application and the timeliness of the restriction requirement should warrant continued prosecution on all claims. This is not found persuasive because searching entire application as recently amended by the Applicant creates a serious burden on the Examiner and a restriction requirement can be made anytime during an examining process.

Applicant argues that since the Examiner has been issued five previous office actions, the Examiner has done plenty of searching in this area. This argument is not persuasive. In previous actions, all the claims were broad; therefore, three groups were overlapped. Applicant has added limited structural limitations in the claims and mostly argued interpretation of the claim language. Therefore, there has been no serious burden on the Examiner to search for all the claims. However, in amendment filed on 02/21/2006 structural limitations of the claims has been accumulated enough to distinguish three groups from each other. Therefore, examining all three groups creates a serious burden on the Examiner.

Applicant argues that three groups can be searched all together and provide subclasses to show how they interrelate. It appears that the Applicant does not understand the examining process. To examine an invention, all claims are given their

broadest interpretation. For example, the blade guard in Group III can be in a miter saw assembly or a grinding machine. Therefore, the blade guard is searched not only in class 83 but also in class 451. In previous office actions since claims were broad, search were performed in class 83. In view of the amendment filed on 02/21/2006, claims are narrower but not clearly overcome prior art. Therefore, searching in other classes beyond class 83 is needed. Searching all possible classes for all three groups creates a serious burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Meredith et al. (5,957,021), hereinafter Meredith.

Regarding claim 13, Meredith teaches a chop saw comprising a base assembly and a saw assembly having an upper blade guard, a lower blade guard, a screw 69 and a plate 66. The plate has a first tab 66a. See Figs. 1, 12 and 13.

Claim Rejections - 35 USC § 103

4. Claims 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meredith et al. (5,957,021), hereinafter Meredith, in view of Fushiya (4,870,758).

Meredith teaches the invention substantially as claimed except for a second tab.

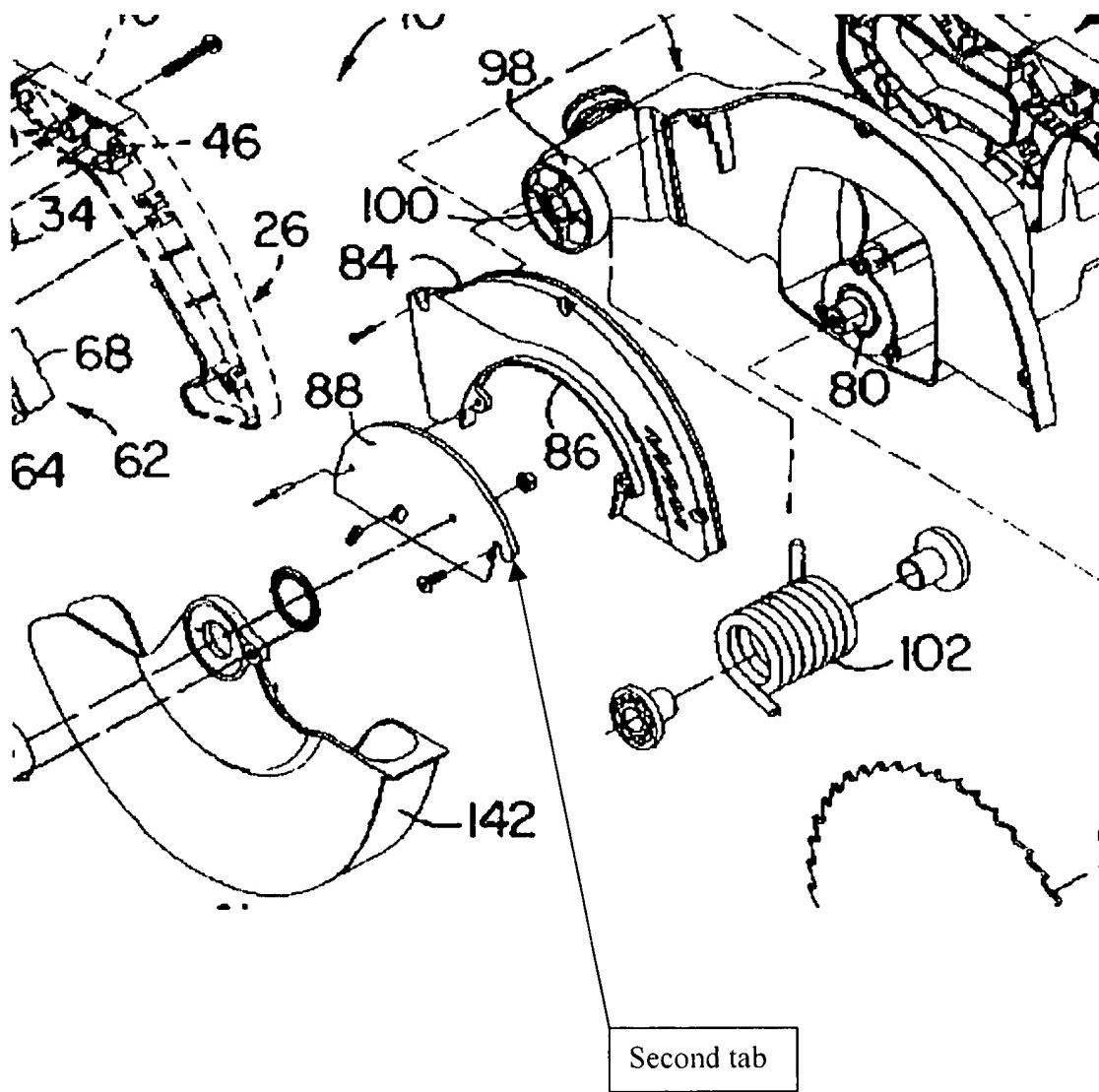
Fushiya teaches providing a tab for limiting pivoting movement of element 21. See Fig.

1. Therefore, it would have been obvious to one skilled in the art to provide a second tab on the plate of Meredith for limiting pivoting movement of the plate as taught by Fushiya.

5. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (5,778,747) in view of Meredith.

Chen teaches a chop saw assembly comprising a base assembly and a saw assembly. The saw assembly comprises an upper blade guard 84, a plate 88, a lower blade guard 142, a screw securing the plate 88 to the upper blade guard 84 and a second tab. See Figs. 1 and 3.

Chen does not teach a first tab. Meredith teaches a first tab 66a for forcing a user to withdraw a fastener a sufficient amount to allow a plate to be pivoted. See Fig. 12 and 13. Therefore, it would have been obvious to one skilled in the art to provide the plate in Meredith a first tab for forcing a user to withdraw the fastener a sufficient amount to allow the plate to be pivoted as taught by Meredith.



Response to Arguments

6. Applicant's arguments with respect to claim 13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

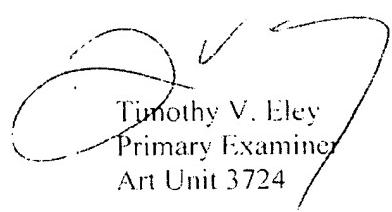
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Timothy V. Eley
Primary Examiner
Art Unit 3724

PN: 

July 26, 2006